

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.09.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No. 24895 of 2018

K.Mangani

..Petitioner

Vs

1. The Principal Secretary to Government
Micro, Small and Medium Enterprises Department,
Secretariat,
Chennai - 09.

2. The Principal Secretary/Industries Commissioner and
Director of Industries and Commerce
SIDCO Corporate Officer Building,
2nd and 3rd Floor, Thiru.Vi.Ka. Industrial Estate
Guindy,
Chennai.

3. The Principal Secretary to Government
Personnel and Administrative reforms (B) Department Secretariat,
Chennai - 09. .. Respondents

Prayer: Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ order or direction
in the nature of writ of Mandamus, directing the respondents to
dispose of the petitioner representations dated 10.01.2018 in
light of Government order issued by the 3rd respondent in
G.O.Ms.No.34 P & AR(Per-B) department dated 21.02.2001 and the
clarification issued by the 3rd respondent in letter
no.1386/B1/2016-1 dated 28.01.2016 within the time frame fixed
by this Court.

For Petitioner : Mr.A.Edwin Prabakar
For Respondents : Mrs.A.Srijayanthi
Additional Government Pleader.

O R D E R

The prayer sought for in this Writ Petition is for issuance
of a Writ of Mandamus, directing the respondents to dispose of

the petitioner representations dated 10.01.2018 in light of Government order issued by the 3rd respondent in G.O.Ms.No.34 P & AR(Per-B) department dated 21.02.2001 and the clarification issued by the 3rd respondent in letter no.1386/B1/2016-1 dated 28.01.2016 within the time frame fixed by this Court.

2. The case of the petitioner is that the petitioner herein was temporarily appointed as Steno Typist in the year 1986 vide proceedings of Joint Director (Establishment) in Se.Mu.No.1907762/PAA2/86-3 dated 29.12.1986 and joined duty on 05.01.1987 at the Office of General Manager, District Industries Centre, Trichy. Thereafter vide proceedings of Joint Director (Establishment) in No.10900/EB-2/89 dated 06.03.1990 the petitioner's appointment was regularized with effect from the date of joining i.e., 05.01.1987 (F.N.) The petitioner herein completed the probation period on 04.01.1989 (A.N). It is submitted that presently the petitioner herein is working as Assistant at Regional Testing Laboratory, Coimbatore.

3. The learned counsel appearing for the petitioner would submit that the 2nd respondent herein issued the combined seniority list for typist and steno typist vide circular in R.C.No. 58041/EB-2/89 dated 24.06.1990 and in which the petitioner herein was arrayed in serial no. 709 in the provisional seniority list. Thereafter the 2nd respondent herein issued final seniority list after considering the objections raised for the above said provisional list for the appointments made from 1984 to 1989 and vide memo in R.C.No. 112849/EB-2/89 dated 13.10.1993 and in which the petitioner was placed at serial no. 84.

4. The learned counsel appearing for the petitioner would further submit that as per G.O.Ms.No. 34 P & AR(Per-B) department dated 21.02.2001, the respondents 1 and 2 herein is duty bound to promote the petitioner to the post of Assistant in the year 2000, whereas instead of promoting the petitioner as per the above said Government order the respondent 1 and 2 herein have not considered the case of petitioner and in the year 2009 the Industries Commissioner and Director of Industries and Commerce, Chepauk, Chennai issued an order dated 14.09.2009 wherein they promoted the petitioner herein was constrained to send a representation to the 2nd respondent herein to consider her claim by representation dated 10.01.2018. But, till date the said representation was not considered. Hence the present writ petition is filed.

5. The learned Additional Government Pleader appearing for the respondents would submit that with regard to the averment made by the petitioner in para 5 of the affidavit, it is submitted that the Government of Tamil Nadu issued a set of

guidelines to be followed while lifting the ban an appointment of Steno-typist Grade III as Assistant vide G.O.Ms.No. 34, Personnel and Administrative Reforms (Per-B) Department dated, 21.02.2001. It is clearly stated in the G.O. that the ban is lifted with effect from 05.08.2000. The Service rendered between the period from 01.08.1992 to 05.08.2000 as Steno-typist Grade-III may be considered since the promotion prospects for the post of Junior Assistant to Assistant is 10 years period. The appointment to the post of Assistant from Steno-typist Grade-III is under transfer of service method, not by promotion. The crucial date has been fixed for the post of Assistant as 15th March of every year and for the year 2001-2002, it was fixed as 15.03.2001 and Steno-typist Grade-III may be appointed as Assistant under transfer of service method from 15.03.2001. Option may be obtained from the working personnel. 5% vacancy have to be made for every year of appointment of Steno-typist Grade-III to the post of Assistant.

6. The learned Additional Government Pleader appearing for the respondents would further submit that the judgment dated 30.06.2011 was issued in W.P.No. 15334 of 2010, which reads as follows;

" 3. The petitioners in all these cases are originally appointed as Steno-Typist through TNPSC selection list at different Years. They claim seniority in the cadre of Assistant based on the combined inter-se-seniority list in the cadre of Junior Assistant/Typist/Steno Typist as per Rule 35(a) of the Tamil Nadu State and Subordinate Service Rules. Similarly placed persons filed W.P.No. 14282, 14287 of 2008 and 11467 of 2009 claiming identical relief and this Court by order dated 07.12.2009 after considering the clarification issued by the Deputy Secretary to Government, Personnel and Administrative Reforms (B) Department has passed the following order;

" 8. Insofar as the ratio with regard to the Junior Assistant/Typist/Steno-Typist is concerned, the same will be applicable as per the orders of the Court as set out above. However, with regard to the claim of the petitioners for treating them on par with that of the Junior Assistant for the purpose of promotional benefits based on the combined seniority in the entry level, which is Group-IV is concerned, since the matter is pending before the Government for consideration, it will be appropriate to direct the Government and the Heads of Department to pass appropriate orders based on the

clarification issued on 22.08.2003 and such exercise will appropriately decide the claim of the petitioners.

9. Hence, the respondents are directed to pass necessary orders in the light of the clarification issued on 22.08.2003, as stated in the counter affidavit. Such exercise shall be completed on or before the end of February 2010. All the three writ petitions are ordered as above. No costs."

4. It is also brought to the attention of this Court that the Government accepted the above said order and issued G.O.Ms.No. 356, dated 07.06.2011 implementing the order of this Court.

5. Learned Special Government Pleader submits that the petitioner if falls in the same cadre, will be entitled for the same benefit, in terms of the order of this Court and the Government Orders issued in the case of similarly placed persons.

6. The petitioners claim to be in the same cadre as that of the petitioners in the earlier batch of writ petitions. Hence, the same benefits will ensure to them in terms of the Government orders passed in respect of similarly placed Government employees. In view of the above, the petition is allowed on the same terms and conditions, as per the order of this Court in W.P.Nos. 14282, 14287 of 2008 and 11467 of 2009 dated 07.12.2009. No costs. Consequently, connected miscellaneous petitions are closed."

7. So, in view of the above decision (W.P.No. 15344 of 2010, dated 30.06.2011), this Court directs the petitioner to send a copy of the representation along with this order copy to the respondents enabling them to pass appropriate orders in accordance with law.

8. Accordingly, the present writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

kmm

To

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Micro, Small and Medium Enterprises Department,
Secretariat,
Chennai - 09.

2. The Principal Secretary/Industries Commissioner and
Director of Industries and Commerce
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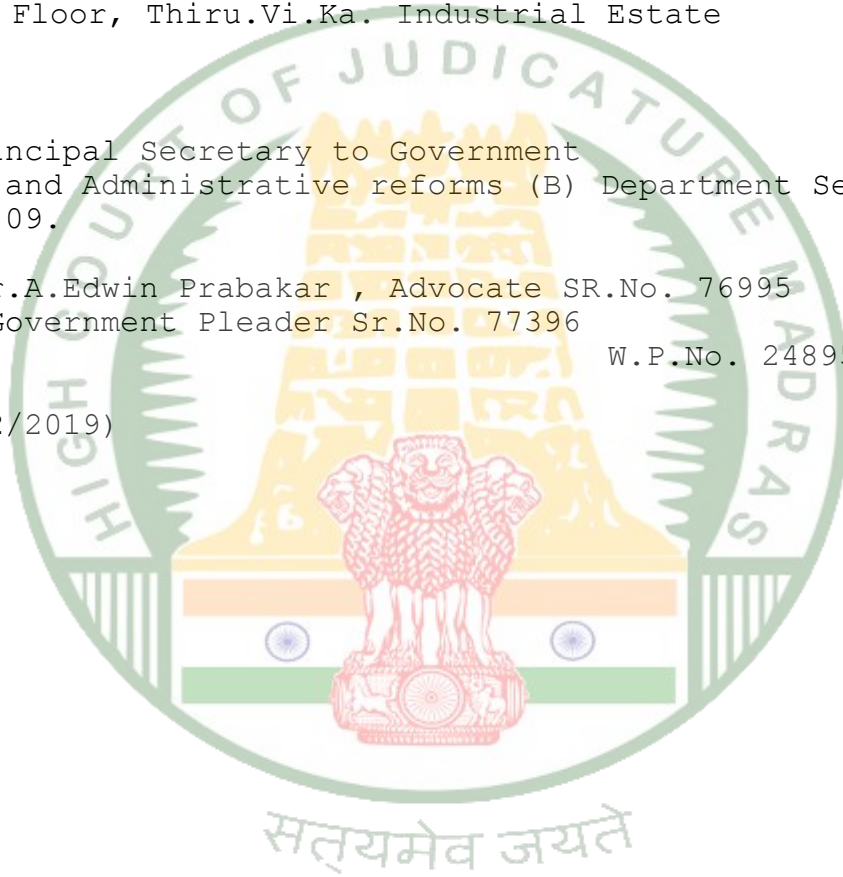
3. The Principal Secretary to Government
Personnel and Administrative reforms (B) Department Secretariat,
Chennai - 09.

+1cc to Mr.A.Edwin Prabakar , Advocate SR.No. 76995

+1 cc to Government Pleader Sr.No. 77396

W.P.No. 24895 of 2018

A.SK(06/12/2019)



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